REMARKS

In summary, claims 1-10 and 14-20 are pending. Claims 1, 4, 8, 14 and 17 are independent. Claims 1, 2, 4, 5 and 8-10 are hereby amended without adding new matter. Claims 1-10 and 14-20 are rejected under 35 U.S.C. § 102(b). Reconsideration in view of the foregoing amendments and following remarks are respectfully requested.

Telephone Conversation With Examiner

Applicant's representative thanks Examiner Meky for the telephone conversation conducted on December 26, 2007. During the conversation, Applicant's representative explained that the cited references do not teach instant messaging. Applicant's representative also explained that independent claims are being amended to recite instant messaging. Applicant's representative also stated that the cited references, as understood, do not teach sending an activity message prior to the end of a time interval when activity is detected during the time interval, but in contrast are directed to a different time interval altogether or, teach sending an inactivity message after the end of a time interval. Examiner Meky noted that two related cases have been allowed, and recommended looking at the allowed cases for grounds for allowability.

Rejection of Claims 1-10 and 14-20 under 35 U.S.C. § 102(b)

Claims 1-10 and 14-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,618,710, issued to Zondervan *et al.* (hereinafter referred to as "Zondervan") (Office Action, p. 2.). Claims 1-10 and 14-20 also are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,349,662, issued to Johnson *et al.* (hereinafter referred to as "Johnson") (Office Action, p. 3.) Applicants respectfully traverse the rejections.

Neither Zondervan nor Johnson disclose or suggest all claim limitations. For example, neither Zondervan nor Johnson disclose or suggest the follow claim limitations as recited in amended independent claim 1.

- measuring a time interval during an instant messaging session

- sending an activity message at least prior to an end of the time interval whenever user activity is detected during the time interval, wherein the activity message indicates preparation of an instant message occurred during the time interval

Neither Zondervan nor Johnson disclose or suggest the follow claim limitations as recited in amended independent claim 4.

- measuring a time interval during an instant messaging session
- sending, at least as early as the end of the time interval, a message indicating that preparation of an instant message occurred within the time interval whenever user activity is detected during the time interval

Neither Zondervan nor Johnson disclose or suggest the follow claim limitations as recited in amended independent claim 8.

- measure a time interval during an instant messaging session
- send an activity message at least prior to the end of the time interval whenever user activity occurs during said time interval, wherein the activity message indicates preparation of an instant message occurred during the time interval

Neither Zondervan nor Johnson disclose or suggest the follow claim limitations as recited in amended independent claim 14.

- measuring a first time interval
- receiving an activity message at the end of the first time interval whenever user activity is detected during the first time interval, wherein the activity message indicates user activity having occurred during the first time interval
- measuring a second time interval that is greater than the first time interval
- deleting an activity indicator after an end of the second time interval when an activity message is not received, wherein the activity indicator previously indicated user activity having occurred within the first time interval

And, neither Zondervan nor Johnson disclose or suggest the follow claim limitations as recited in amended independent claim 17.

- measure a first time interval
- receive an activity message at least as often as after the passage of every first time interval if user activity is detected, wherein the activity message indicates user activity having occurred within the passage of the first time

interval and is generated whenever user activity has occurred within the
passage of the first time interval

- delete an activity indicator after an end of a second time interval when an
  activity message is not received after the passage of said second time
  interval, wherein the activity indicator previously indicated user activity
  having occurred within the passage of the first time interval.

Zondervan

In contrast to Applicant's claimed invention, Zondervan neither teaches nor
contemplates instant messaging. Zondervan is directed to routing emails to a computer or
pager. (See, e.g., Zondervan, Abstract; col. 2, ll. 38-43.) The Office Action cited Column 3,
lines 52-58 in Zondervan as allegedly disclosing instant messaging. Applicant respectfully
disagrees. As is known, instant messaging allows individuals to engage in an ongoing
electronic communication without the need for entering the message recipient's e-mail
address for each individual transmission. Zondervan teaches an unrelated concept.
Zondervan teaches that two or more group members can build groupware stored on a server.
Each group member receives notice from a notification server when another member makes a
change to the groupware on the server. This is not instant messaging wherein multiple users
communicate with one another.

Additionally, Zondervan does not teach or suggest measuring a time interval during
an instant messaging session or sending an activity message prior to the end of a time interval
when activity is detected during the time interval. Zondervan discloses sending an _inactivity
message_ to a notification server only _after the end of a time interval_. (Zondervan, col. 4, ll. 6-
13.) Zondervan discloses nothing about when an activity message is sent. But, because
Zondervan is not concerned with instant messaging, Zondervan would not send an activity
message prior to the end of a time interval when activity is detected during the time interval.
Once a user is inactive, Zondervan would no longer measure a time interval because the time
interval is irrelevant. Only when a user is deemed active, through activity on his/her
computer, does Zondervan state that it monitors a timer. If there is activity during the timed
interval then all that Zondervan does is reset the timer; it does not send an activity message
because there is no change in the status of the user. Thus, Zondervan only notifies the server

if there is no activity. And, this is done only after the end of the timed interval. (Zondervan, col. 4, ll. 6-13.).

For at least the foregoing reasons, it is submitted that Zondervan does not disclose or suggest all limitations of claims 1-10 and 14-20.

Further, with respect to claims 14-20, the Office Action simply dismissed claims 14-20 as "similar in scope to claims 4-7, and . . . rejected [them] under the same rationale." (Office Action, p. 2, No. 8). It is submitted, however that Zondervan fails to disclose or suggest all limitations present in claims 14-20. For example, claim 14 recites "a second time interval that is greater than the first time interval". The only time interval that Zondervan discloses is one used to detect a change from activity to inactivity. Zondervan does not disclose or suggest a second time interval, let alone one that is greater than the first time interval. Zondervan also does not disclose or suggest "deleting an activity indicator" as recited in claim 14. Accordingly, it is submitted that Zondervan fails to teach or suggest all limitation of claims 14-20 also for the foregoing additional reasons.

In view of the foregoing amendments and remarks, it is requested that the rejection of claims 1-10 and 14-20 under 35 U.S.C. § 102 in view of Zondervan be reconsidered and withdrawn.

Johnson

In contrast to instant messaging, Johnson is directed to business spyware or a data collection utility that searches computer use event history in a database that logs events on other computers or that searches events on other computers for a selected time period. See, e.g., Johnson, col. 2, l. 58 – col. 3, l. 45. The Office Action cited column 4, lines 49-60 as allegedly disclosing instant messaging, but there is nothing disclosed about instant messaging therein. This is not surprising because the topic of Johnson is overt and covert data collection about computer use. Notably, the laundry list of reasons given by Johnson, at column 2 line 58 to column 3 line 45, for spying on other computer users or collecting data about their computer use with their knowledge does not list or suggest instant messaging.

Additionally, Johnson does not teach or suggest measuring a time interval during an instant messaging session or, sending an activity message that indicates preparation of an instant message prior to the end of the time interval whenever user activity is detected during the time interval. The "time interval" taught in Johnson is a time of interest selected by the person querying the database or a particular computer for purposes of searching strings of detected events to try to determine the activity a user was engaged in. Johnson discloses nothing in regard to when a message (during direct query shown in Fig. 6) is provided to the computer that queried computer usage. (Johnson, col. 11, ll. 39-44; Fig. 6.). Moreover, a message will be sent only if an entire sequence of events occurs that translate into a recognizable activity per a table. (Johnson, Fig. 6, elements 430 - 470.)

For at least the foregoing reasons, it is submitted that Johnson does not disclose or suggest all limitations of claims 1-10 and 14-20.

Further, with respect to claims 14-20, the Office Action simply dismissed claims 14-20 as "similar in scope to claims 4-7, and . . . rejected [them] under the same rationale." (Office Action, p. 2, No. 8). It is submitted, however that Johnson fails to disclose or suggest all limitations present in claims 14-20. For example, the only time interval that Johnson discloses is a search time of interest selected by the person overtly or covertly spying. Johnson does not disclose or suggest a second time interval, let alone one that is greater than the first time interval. Johnson also does not disclose or suggest the deletion of an activity indicator, and especially not under the circumstances provided in claims 14-20. It is submitted that Johnson fails to teach or suggest all limitations of claims 14-20 also for the foregoing additional reasons.

Further, with respect to dependent claims 2, 5, and 9, it is noted that Johnson does not disclose or suggest resetting the timer used to measure the time interval after detecting user activity. Resetting the time interval in Johnson upon detecting user activity would render Johnson dysfunctional for its intended purpose of spying during a selected time interval.

In view of the foregoing amendments and remarks, it is requested that the rejection of claims 1-10 and 14-20 under 35 U.S.C. § 102 in view of Johsnon be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing remarks and amendments, it is respectfully submitted that this application is in condition for allowance. Reconsideration of this application and an early Notice of Allowance are respectfully requested.

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